

Revised 03/06 WDNV

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

**FORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)**

11 CV 0671 *m*

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION

A. Full Name And Prisoner Number of Plaintiff: **NOTE:** *If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.*

1. Gregory Sean Miles #04-A-1587 / Seneca County - NY.
2. Jury Trial Demanded!

-VS-

B. Full Name(s) of Defendant(s) **NOTE:** *Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.*

1. Lieutenant LOVAC
2. C.O. C. Carroll
3. C.O. Null
4. [REDACTED]
5. [REDACTED]
6. [REDACTED]
Seneca County, NY.

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION **NOTE:** *To list additional plaintiffs, use this format on another sheet of paper.*

Name and Prisoner Number of Plaintiff: Gregory Sean Miles (#04-A-1587) 1
Present Place of Confinement & Address: FIVEPOINTS, C.F. STATE RT. 96, P.O. BOX 119, REMULUS, NY 14551
(am suing in individual capacities of defendants)

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: Lieutenant Lorac
 (If applicable) Official Position of Defendant: Lieutenant at Fivepoints, Correctional Fac.
 (If applicable) Defendant is Sued in ☒ Individual and/or ☐ Official Capacity
 Address of Defendant: FIVEPOINTS, CORRECTIONAL FAC. STATE RT. 96, P.O. BOX 119, ROMULUS, NY 14541
Seneca County, New York

Name of Defendant: C.O. C. Carroll
 (If applicable) Official Position of Defendant: Correctional officer
 (If applicable) Defendant is Sued in ☒ Individual and/or ☐ Official Capacity
 Address of Defendant: FIVEPOINTS, CORRECTIONAL FAC. STATE RT. 96, P.O. BOX 119, ROMULUS, NY
14541 zip code. Seneca County, NY

Name of Defendant: Mr. Null (M. Null)
 (If applicable) Official Position of Defendant: correction officer
 (If applicable) Defendant is Sued in ☒ Individual and/or ☐ Official Capacity
 Address of Defendant: FIVEPOINTS, C. F. STATE RT. 96, P.O. BOX 119, ROMULUS, NY 14541
Seneca County, NY

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
 Yes ☒ No ☐

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

- Name(s) of the parties to this other lawsuit:
 Plaintiff(s): ~~Gregory Sean Miles~~ Gregory Sean Miles (#04-A-1557)
 Defendant(s): SGT. Walewander
- Court (if federal court, name the district; if state court, name the county): Western District
- Docket or Index Number: CASE 1:10-CV-00978-JJM Document 7
- Name of Judge to whom case was assigned: Hon. Charles J. Siragusa

5. The approximate date the action was filed: 06/08/11
6. What was the disposition of the case?

Is it still pending? Yes ☒ No ☐

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

☐ By court for failure to exhaust administrative remedies;

☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

☐ plaintiff

☐ defendant.

- B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes ☐ No ☒ (~~other than the one above~~)

If Yes, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. District Court: _____

3. Docket Number: _____

4. Name of District or Magistrate Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes ☐ No ☐

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

- ☐ plaintiff
- ☐ defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|---------------------------|------------------------|-------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Excessive Force | • Denial of Medical Treatment |
| • <u>Equal Protection</u> | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). **Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

A. FIRST CLAIM: On (date of the incident) 8/13, 2010 with
 defendant (give the **name and position held** of each defendant involved in this incident) Lt. LOVAC, M. NULL correctional officer, and C. CARROLL correctional officer. (Lieutenant Lovac)

did the following to me (briefly state what each defendant named above did): I fell out the shower in my cell do the fact I wear a A-F-O plastic leg brace for a drop right foot! My bunkie call for the officers, when they came they handle my problem with little respect and allowed me to lay on the floor for 45 mins. before I saw medical staff. Officer Carroll with C.O. Null had taken me to the clinic being I had not received my medical shower chair as of yet. A Lieutenant "LOVAC" remembered me when I was in the contraband 1-on-1 watch room and expressed to me he hates NIGGERS! And im a nigger! At the time I thought his name was (Sczepow-ki) because as I asked staff, this was what I was being told as the joke was silently upon me. I got their names upon re-entering SPTS correctional situ. This Lt. LOVAC called me this in the shit watch contraband

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Eight Amendment

SEE PAGE
 TWO
 (REUSE)

The relief I am seeking for this claim is (briefly state the relief sought): _____

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? _____ Yes _____ No If yes, what was the result? _____

Did you appeal that decision? _____ Yes _____ No If yes, what was the result? _____

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

A. SECOND CLAIM: On (date of the incident) _____

defendant (give the **name and position held** of each defendant involved in this incident) _____

did the following to me (briefly state what each defendant named above did): _____

PLEASE SEE PAGE TWO IN WHICH
I HAVE ENCLOSED WITH THIS PACKET AS TO WHAT
HAPPEN TO ME!

The constitutional basis for this claim under 42 U.S.C. § 1983 is: MY EIGHT AMENDMENT RIGHTS & cruel and
UNUSUAL PUNISHMENT AS WELL AS ASSAULT. AND MY C.

The relief I am seeking for this claim is (briefly state the relief sought): TEN million for mental & physical
harm done to me! (COMPENSATORY & PUNITIVE DAMAGES)

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? ☒ Yes ☐ No If yes, what was the result? WAS DENIED AND
IT WAS AN COVER UP BY STAFF HERE AT SPAS. AS WELL AS I TRIED TO RE-GRIEVANCE IT AND WAS GIVEN
Did you appeal that decision? ☒ Yes ☐ No If yes, what was the result? DENIED ALSO, WITH
LIES STATED BY THE NURSE AND OFFICER(S) WORKING TOGETHER

WAS GIVEN
THE FULL
HOURS

Attach copies of any documents that indicate that you have exhausted this claim. SEE EXHIBITS.

If you did not exhaust your administrative remedies, state why you did not do so: _____

N/A

If you have additional claims, use the above format and set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

THAT NOW THAT I KNOW THE NAMES OF THE PEOPLE WHO BEAT ME FOR RECREATIONAL FUN
I GET TO BRING THEM TO COURT AND SEEK JUSTICE IN THE AMERICAN WAY AS IT WAS
SORT UPON ME. JURY TRIAL DEMANDED!

Do you want a jury trial? Yes ☒ No ☐



(Briefly state what each defendant named above did): On Aug 13, 2010 Some where in the evening tour (5 P.M. or 6 P.M?) I WAS trying to take A shower, in which the shower is in the cell and I wear AN A-F-D Plastic Lea brace for a right drop foot! I fell out the shower and MY bunkie called for the COMPANY OFFICERS, When they come they handle MY Problem with little respect and Allowed ME to LAY on the floor for atleast 45 mins, before I saw Medical staff. Officer C. Carroll with C.O. NULL had taken me to the clinic with other others, being I had not received MY medical shower chair yet. A Lieutenant "LOVAC" I remembered from the contraband watch 1-on-1 Rm. WAS there in the clinic that evening when they (officers) brought me into the examination Area. He kept ASKING ME whats wrong? I wouldn't SPEAK for a while remembering what he told ME up in the contraband rm. "that I WAS A NIGGER, and he didn't like NIGGERS!" At that time MY neck WAS in A NECKBRACE and I did not know his name, I WAS told later by some staff who WAS PLAYING A cruel joke, his name WAS Lt. SZCZEPOLWASKI... I Got there NAMES when I returned to SPTS. jail. When I did SPEAK, I said - You don't remember ME? And told him what he said to ME while in the contraband one on one watch room. He state to AN officer NULL to roll ME WAY in the back of the clinic where NO ONE could see ME! By this time I had seen two nurse's, one being MS. Gardener and another I do not know of? I told them what happen. I WAS rolled in the back area of the clinic, they Placed me in room #4, At that moment they had a nurse and unknown officer remove the mattress from its frame and Place it on the Floor, stating they didn't want ME to slip & fall AGAIN or something to the effect of roll

(see Page II)

Officer Null And C.O. C. Carroll Pick ME UP: Officer Null Grabbed me by the handcuffs And C.O. C. CARROLL Grab MY Feet And they together threw me into radiator in which is mounted to the wall that I bounce off And landed on to the mattress on the floor! I was deep in Pain at this point And when Lt. Lovec with officer Null And C. Carroll And a throna of other officers came into room #4, He Place the tip of his foot on MY forehead, And I knocked it AWAY with MY hands in handcuffs. He then said to ME, "MILES - I ALWAYS win!" Then he LAUGHED at ME AS he WAS EXITING the room with the officers. I had on NOthina but MY undershorts, they had left MY leg brace in the cell. He told them (officers) while outside of the room to whip MY ASS but Not to bad AS I notice how they kept looking threw the window at me, And I WAS ABle to read his lips. They officer Null And Carroll with a throna of officers Pick ME UP And began hitting ME All over MY body with their hands in closed fist. Three to four held MY ARMS/shoulders & head Area alone with officer Null who WAS At top And Carroll with others in the rear. They hit me in the balls And tryed to SEPERATE MY legs And I began fighting/struggling for MY life! Officer Null Got in controll And had me lifted in the air, I felt officer NULL's hand upon MY ASS AREA And it felt like his hand (Gneers) went inside me, but I WAS fighting for MY life And broke somewhat free of his hold (officer Null) And came to the head, when I looked up he hit ME SQUARE in the nose with his fist And I heard a loud crunch that told ME MY NOSE WAS broken!! I stop fighting AS the blood ran out of MY nose And onto the floor. They officers threw me on the matt on the Floor And began to leave. There WAS a Pool of Blood And I began to curse them, officer Null And others came back into the room, officer Null Grab ME by the cuffs And dragged me in MY blood into ANother room which I believe WAS #7 (seven) AS I went threw (PLEASE SEE PAGE III)

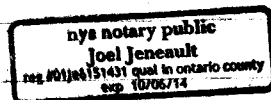
THE LT. LOVAC WAS LOOKING THROUGH THE WINDOW AND I STARTED CURSING AT HIM! I REACHED FOR THE NURSE'S CALL BUTTON CORD AND KEPT PRESSING IT BECAUSE I WAS IN PAIN AND IT MADE A LOUD NOISE, AND A OFFICER CAME AND UN-PLUG THE CORD SO I COULD NO LONGER USE IT. THE NURSE IGNORED MY PLEADS FOR HELP. WHEN SHE DID SHOW ME AND HER LAUGHED AND HE (LT. LOVAC) STARTED SAYING -- "MILES STOP BANGING YOUR FACE INTO THE WALL." I TOLD HIM TO GET THE FUCK AWAY FROM ME YOU DEVIL! THEY HAD A MENTAL HEALTH NURSE NAME STEVE COME SEE, AND I TOLD HIM I DIDN'T WANT TO TALK!! HE LEFT ME ALONE AT THAT POINT. WHEN THEY (OFFICERS) CAME BACK THEY RUSH ME AND RIPPED MY UNDERWEARS OFF OF ME AND LEFT ME ON THE BARE FLOOR, WITH NOTHING TO SLEEP ON AND TURN ALL THE WATER TO THE SHOWER AND SINK AND TOILET OFF. I MOAN AND THEY WERE IN THE WINDOW LAUGHING AND I CURSE THEM AS THEY MADE JOES. THEN CO. C. CARROLL BROUGHT IN A MOP HEAD AND CLEANED UP THE BLOOD AND WIPE THE EXCESS BLOOD ON ME OFF. IN MY PRIVATE AND BUTTOCK AREA. HE USED TOWELS TO CLEAN MY FACE OFF AS TWO OTHER OFFICERS HELD ME TO TAKE SOME PICTURES. I KEPT CURSING THESE PEOPLE WHO HAD INFLICTED PAIN UPON ME IN THE WORSE WAY, AND SOME ONE STUCK ME IN THE HIP WITH A NEEDLE AS I LAYED ON THE FLOOR NUDE. I LATER LEARN IT WAS STEVE (OMH NURSE). I STAYED IN THAT ROOM FOR

③ THREE DAYS WITH A BROKEN NOSE AND RIBS. SATURDAY AUG 14, 2010 IN THE AM. I SAW A NURSE WHO TOLD ME THERE WAS NO DOCTOR, AND ORDERED SGT. TUCKER TO TURN ON THE WATER IN THE SINK, DUE TO ME TELLING HER I HAD TO DRINK WATER OUT OF THE

(PAGE 4 END)

to let because my mouth was dry and I was thirsty. I was given nothing for the pain and recanted on the sexual cipher, because the state trooper and I.G. officer met us at the hospital, the I.G. officer allocated me to know he worked as a C.O. for something like 23? years and this isn't something I would want to get out! He asked how much time I had? and I stated life! So I told him right there I wanted to sign off, and he said no problem.

Sworn to me, ~~30~~ 22
 day of, July, 20, 11
 Notary Public *Joel Jenault*



x *[Signature]*
 SIGN NAME

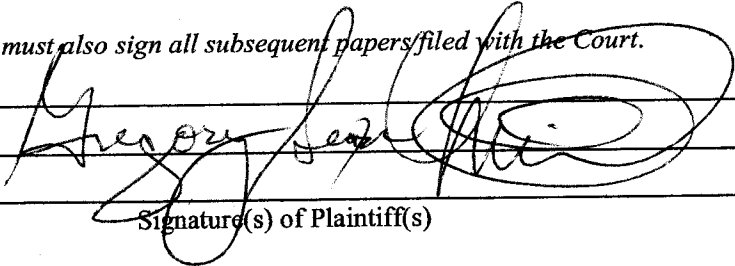
x GREGORY SEAN MILES #01A1557
 Print NAME

C.C.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 25, 2011
(date)

NOTE: *Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.*



Signature(s) of Plaintiff(s)